

PROPERTY MANAGEMENT SERVICES AUTHORITY

Best Practice Guide on Prevention of Corruption

Guide No.: G6/2021

Effective Date: 23 July 2021

Preamble

For the purpose of enabling licensees¹ to comply more effectively and professionally with the guidelines set out in the code of conduct² entitled “Prevention of Corruption” (Code No.: C6/2021) (“Code”) issued by the Property Management Services Authority (“PMSA”) on 23 July 2021, the PMSA provides relevant guidelines in this best practice guide (“Guide”) pursuant to section 44³ of the Property Management Services Ordinance (“PMSO”). While licensees are encouraged to use their best endeavours to follow the Guide, failure to comply with the Guide will, however, not be regarded as a disciplinary offence referred to in section 4 of the PMSO.

Integrity policy and requirements for licensed property management companies (“PMCs”)

Code: A(1) A licensed property management company (“licensed PMC”) has to formulate a policy on prevention of corruption for its business of providing property management services (“PMSs”). The policy has to include —

- (a) the company’s integrity management policy;
- (b) the company’s probity requirements for its property management practitioners; and
- (c) a reporting mechanism for prompt reporting of suspected illegal acts to relevant law enforcement agencies.

¹ The term “licensee” means the holder of the following licence: a PMC licence; a PMP (Tier 1) licence; a PMP (Tier 2) licence; a provisional PMP (Tier 1) licence; or a provisional PMP (Tier 2) licence.

² With regard to the code of conduct containing practical guidance issued by the PMSA under section 5 of the PMSO for the purpose of section 4 of the PMSO (disciplinary offences), although a licensee does not incur a legal liability only because the licensee has contravened a provision of the code of conduct, the code of conduct is admissible in evidence in disciplinary hearings, and proof that a licensee contravened or did not contravene the relevant provision of the code of conduct may be relied on as tending to establish or negate a matter that is in issue in the hearings.

³ Section 44 of the PMSO provides: “*The Authority may do anything it considers appropriate for it to do for, or in relation to, the performance of its functions*”.

A(2) A licensed PMC has to ensure that the policy set out in paragraph A(1) of the Code is duly communicated to its directors, staff, agents and subcontractors.

Guide

a(1) A licensed PMC should ensure that its integrity management policy and probity requirements (see samples at **Appendices 1 & 2**) cover the essential integrity elements including prohibition on bribery and corruption, managing conflict of interest and handling of confidential information.

Providing integrity training by licensed PMCs

Code: B(1) A licensed PMC has to provide integrity training regularly to its senior officers (i.e. directors, managers and company secretaries) and staff holding certain key positions (e.g. accounting staff, human resources and administrative staff) to raise their awareness in corruption prevention.

Guide

b(1) To comply with the requirements set out in paragraph B(1) of the Code, a licensed PMC should maintain an integrity training cycle⁴ for its senior officers (i.e. directors, managers and company secretaries) and staff holding certain key positions (e.g. accounting staff, human resources and administrative staff) and monitor its implementation.

b(2) Apart from the officers / staff mentioned in paragraph B(1) of the Code, a licensed PMC should, where practicable, also adopt other appropriate means (e.g. distributing notices, arranging briefing sessions, etc.) to enable its other staff as well as its clients⁵ to keep abreast of the relevant integrity management issues and acquire knowledge in corruption prevention.

⁴ A training cycle includes the following elements of training: 1) identifying training needs; 2) formulation; 3) development; 4) implementation; 5) application; and 6) evaluation.

⁵ The term “client” has the same meaning as defined in section 16 of the PMSO, i.e. “*in relation to a property for which a licensed PMC provides property management services, means— (a) the owners’ organization of the property; and (b) the owners of the property who pay or are liable to pay the management expenses in respect of the services*”. According to such definition, a tenant is not a client.

Managing integrity risk by licensed PMCs

Code: C(1) A licensed PMC has to manage the integrity risk⁶ for its business of providing PMSs and ensure that its work procedures include risk control measures.

Guide

- c(1) To comply with the requirements set out in paragraph C(1) of the Code, a licensed PMC should:
- (a) identify the integrity risks of its work procedures;
 - (b) evaluate the risk levels;
 - (c) formulate and implement measures to control and mitigate the risks;
 - (d) monitor the implementation of the control measures and review their effectiveness periodically; and
 - (e) ensure its staff comply with the control measures.

Probity requirements for licensed property management practitioners

Code: D(1) A licensed property management practitioner (“licensed PMP”) has to comply with the following probity requirements—

- (a) complying with the prevention of corruption policy formulated by the PMC that the licensed PMP works for;
- (b) bribery and corruption are strictly prohibited, including—
 - (i) complying with the Prevention of Bribery Ordinance (“POBO”) (Cap. 201) and other relevant laws when carrying out property management work, and any act of bribery or corruption in whatever form is prohibited;

⁶ Integrity risk refers to a threat to the performance or the reputation of an organisation due to the misconduct or illegal act, such as bribery, fraud, conflict of interest, misuse of office of its members, employees, agents or business counterparts.

- (ii) not to solicit or accept any advantage from others as a reward for or inducement to doing any act or showing favour in relation to the property management affairs, or offer any advantage to an agent of another as a reward for or inducement to doing any act or showing favour in relation to the principal's business or affairs;
 - (iii) not to offer any advantage to any public servant (e.g. Government / public body employee) as a reward for or inducement to the performing of any act in the official capacity or showing any favour or providing any assistance in business dealings with the Government / a public body;
 - (iv) not to offer any advantage to any staff of a Government department or public body while having business dealings with them;
- (c) not to solicit, accept and offer advantage — complying with the rules / restrictions set by clients / PMCs regarding illegal solicitation, acceptance and offering of any advantage as defined under the POBO;
- (d) avoidance of conflict of interest — avoiding any actual or perceived conflict of interest. If unavoidable, the licensed PMP concerned has to make a declaration to the relevant designated approving officer as mentioned in the relevant policy of the PMC that the licensed PMP works for, who should decide on the appropriate management / mitigation measures to be adopted;
- (e) abuse of office is strictly prohibited — clients' and PMCs' assets, including funds, property, information, and intellectual property may only be used for the purpose of conducting the clients' / PMCs' business. Any unauthorised use of the clients' / PMCs' assets is prohibited; and
- (f) assistance to law enforcement agencies — rendering full assistance to law enforcement agencies in the investigation of criminal offences.

Guide

- d(1) To comply with the probity requirements set out in paragraph D(1) of the Code, a licensed PMP should attend the integrity training provided by the PMSA, the PMC that the licensed PMP works for and relevant organizations (e.g. the Independent Commission Against Corruption).

— END —

If there is any inconsistency between the Chinese version and the English version of this Guide, the Chinese version shall prevail.

Integrity Management Policy¹

 (Name of Company) (“Company”) prohibits all forms of bribery and corruption, and is committed to integrity, honesty and anti-corruption practices in doing business. All sole proprietor / partners / directors* and staff (hereafter referred as “personnel”) must abide by this integrity policy and the associated rules / guidelines / code of conduct*.

- Our Company and all personnel have to observe the Prevention of Bribery Ordinance (Cap. 201), the Competition Ordinance (Cap. 619) and relevant laws when conducting business.
- Our Company prohibits all personnel from disclosing any classified information without authorisation, and misusing any company information.
- Our Company does not allow our personnel to solicit or accept any advantage² from any individuals or organisations having business dealings with our Company unless prior permission is granted for the acceptance.
- Our Company has an internal reporting mechanism for our personnel to enquire matters relating to integrity and report possible breaches of integrity requirements. Our Company handles these reports promptly and in strict confidence.
- Our Company prohibits all personnel from offering advantages to any staff or member of Government departments or public bodies while having dealings of any kind with them. We also prohibit all personnel from offering advantages to any individual of organisations, whether directly or indirectly, through a third party, for influencing them in any dealing, when conducting business with our Company.
- Our Company strictly forbids retaliation against any personnel who, in good faith, reports possible breaches of integrity requirements or who participates in the inquiry / investigation of the allegation.
- Our Company’s personnel are required to avoid accepting lavish or frequent entertainment from others having business dealings with our Company.
- Any personnel in breach of any integrity requirement will be subject to internal disciplinary action, including written warning, termination of appointment and / or referral to relevant law enforcement agencies.
- Our Company requires all personnel to avoid any conflict of interest situation, or the perception of such. If unavoidable, the personnel concerned should make a declaration to the approving officer designated by the company who should decide on the actions for mitigating the conflict.
- Our Company will render full assistance to law enforcement agencies in the investigation of criminal offences.
- Our Company is committed to partner with ethical business counterparts who share the same values and commit to the same integrity standard.

Signature³(s): _____

* delete as appropriate

¹ While it may not be necessary for a company to use the exact wording in the sample, the standard and requirements adopted by the company shall be on par with, or not inferior to, that of this sample.

² Advantage is defined under the Prevention of Bribery Ordinance (Cap. 201) covering any gift, loan, fee, reward, commission, office, employment contract, discharge from obligation / liability / loan, service and favour, exercise or forbearance from exercise of right / power / duty, etc.

³ The policy has to be endorsed and signed by the top management of the Company.

Probity Requirements for Property Management Practitioners (“PMPs”)

Prohibition Against Bribery and Corruption

- PMPs shall comply with the Prevention of Bribery Ordinance (“POBO”) (Cap. 201) and other relevant laws when carrying out property management work, and all forms of bribery and corruption shall be strictly prohibited.
- PMPs shall not:
 - solicit or accept any advantage from others as a reward for or inducement to doing any act or showing favour in relation to the property management business or affairs, or offer any advantage to an agent of another as a reward for or inducement to doing any act or showing favour in relation to the principal’s business or affairs;
 - offer any advantage to any public servant (e.g. Government / public body employee) as a reward for or inducement to the performing of any act in the official capacity or showing any favour or providing any assistance in business dealings with the Government / a public body; or
 - offer any advantage to any staff of a Government department or public body while having business dealings with them.

Solicitation, Acceptance and Offering of Advantages

- PMPs shall comply with the rules/restrictions set by clients / property management companies (“PMCs”) regarding illegal solicitation, acceptance and offering of any advantage as defined under the POBO.

Conflict of Interest

- PMPs shall avoid any actual or perceived conflict of interest. If unavoidable, the PMP concerned shall make a declaration to the relevant approving officer designated by the PMC who should decide on the appropriate management/mitigation measures to be adopted.

Prohibition Against Abuse of Office

- PMPs may only use clients’ and PMCs’ assets, including funds, property, information, and intellectual property, for the purpose of conducting the clients’ / PMCs’ business. Any unauthorised use of the clients’ / PMCs’ assets shall be strictly prohibited.

Assistance to Law Enforcement Agencies

- PMPs shall render full assistance to law enforcement agencies in the investigation of criminal offences.